

AN ACT

ENTITLED, An Act to clarify how the motor vehicle excise tax is calculated on certain leased vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 32-5B-1.1 be amended to read as follows:

32-5B-1.1. For motor vehicles leased for more than twenty-eight days, the lessor shall title and license the motor vehicle and denote the lessee on the application for title. The lessor or the lessee shall pay the motor vehicle excise tax. If the term of the lease is extended or if the vehicle is leased for an additional period of time, the motor vehicle excise tax shall be assessed on the additional lease payments and shall be paid by the lessor. If additional consideration is paid during the course of the lease or upon the termination of the lease, the motor vehicle excise tax shall be assessed upon such amount and paid by the lessor. If a lessee buys the leased vehicle at the end of the lease, excise tax shall be assessed on the purchase prices in § 32-5B-4. The lessor shall assign the title to the lessee and shall deliver it to the county treasurer of the applicant's residence, along with an application certifying the price of the vehicle and the required fees and taxes.

A lessee who entered into a lease prior to July 1, 2000, and who paid excise tax based on the purchase price of the vehicle, including the value of the leased vehicle at the end of the lease, shall receive credit for tax previously paid if the lessee purchases the vehicle at the end of the lease.

Section 2. That § 32-5B-4 be amended to read as follows:

32-5B-4. For the purposes of this chapter, the purchase price is:

- (1) For a new motor vehicle sale or lease, the total consideration whether received in money or otherwise. However, when a motor vehicle is taken in trade as a credit or part payment on a new motor vehicle, the credit or trade-in value allowed by the seller shall be deducted from the total consideration for the new motor vehicle to establish the purchase price;

- (2) For a used motor vehicle sold or leased by a licensed motor vehicle dealer, the total consideration for the used motor vehicle whether received in money or otherwise. However, when a motor vehicle is taken in trade by the dealer as a credit or part payment on a used motor vehicle, the credit or trade-in value allowed by the dealer shall be deducted from the consideration so that the net consideration is established;
- (3) For a used motor vehicle sold, leased, or transferred by any person other than a licensed motor vehicle dealer, the total consideration received in money or otherwise. However, when a motor vehicle is taken in trade as a credit or part payment on a used motor vehicle, the credit or trade-in value shall be deducted from the total consideration so that the net consideration is established. The purchaser and seller of the motor vehicle shall submit to the county treasurer a bill of sale, approved and supplied by the secretary. If a bill of sale is not submitted, the excise tax will be assessed on the retail value as stated in a nationally recognized dealers' guide as approved by the secretary of revenue. If the excise tax is assessed on the retail value, the value of the motor vehicle taken in as credit on trade-in shall be the retail value as stated in the nationally recognized dealers' guide;
- (4) For a new or used motor vehicle acquired by gift or other transfer for no or nominal consideration, the manufacturers' suggested dealer list price for new motor vehicles and for used motor vehicles the retail value stated in a nationally recognized dealers' guide approved and furnished by the secretary of revenue;
- (5) For a motor vehicle manufactured by a person who registers it under the laws of this state, the amount expended for materials, labor, and other properly allocable costs of manufacture or in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, the reasonable value of the completed motor vehicle;
- (6) For a rebuilt motor vehicle, upon its initial registration and titling, the total consideration

for the salvage vehicle, whether received in money or otherwise;

- (7) For either a new or used motor vehicle, as defined by § 32-5B-21, which is a closed lease, the total consideration whether received in money or otherwise. Total consideration is all lease payments including cash, rebates, the net trade-in, extended warranties, administrative fees, acquisition fees, or any other fees assessed on the purchase of the vehicle. Total consideration does not include title fees, registration fees, vehicle excise tax paid pursuant to §§ 32-5B-1, 32-5B-1.1, and 32-5B-21 to 32-5B-24, inclusive, federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner, insurance, and refundable deposits;
- (8) For either a new or used motor vehicle, as defined by § 32-5B-21, which is leased, and the terms of the lease are either not certain at the time the lease contract is executed or the lease is open ended, the purchase price shall be the total consideration whether received in money or otherwise. Total consideration includes the purchase price of the vehicle, plus cash, rebates, the net trade-in, extended warranties, administrative fees, acquisition fees, or any other fees assessed on the purchase of the vehicle. Total consideration does not include title fees, registration fees, vehicle excise tax paid pursuant to §§ 32-5B-1, 32-5B-1.1, and 32-5B-21 to 32-5B-24, inclusive, federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner, insurance, and refundable deposits.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1223

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1223

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State